

Senate Study Bill 3180 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON BOLKCOM)

A BILL FOR

1 An Act relating to the collocation of small wireless facilities
2 and small wireless facility networks.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 8C.2, Code 2016, is amended by adding the
2 following new subsections:

3 NEW SUBSECTION. 10A. *a. "Small wireless facility"* means a
4 base station which meets the following requirements:

5 (1) Each antenna is located inside an enclosure of no more
6 than six cubic feet in volume or, in the case of an antenna
7 that has exposed elements, the antenna and all of its exposed
8 elements could fit within a theoretical enclosure of no more
9 than six cubic feet in volume.

10 (2) (a) All other transmission equipment associated with
11 the base station is cumulatively no more than twenty-eight
12 cubic feet in volume.

13 (b) For purposes of this subparagraph, the electric meter,
14 concealment, telecommunications demarcation box, ground-based
15 enclosures, backup power systems, grounding equipment, power
16 transfer switch, cutoff switch, and vertical cable runs for the
17 connection of power and other services shall not be included in
18 the calculation of the volume of the associated transmission
19 equipment.

20 *b. "Small wireless facility"* does not include any structure
21 that supports or houses equipment described in this subsection.

22 NEW SUBSECTION. 10B. *"Small wireless facility network"*
23 means a collection of interrelated small wireless facilities
24 designed to deliver wireless communications service.

25 NEW SUBSECTION. 14A. *"Wireless communications service"*
26 means the same as defined in section 34A.2.

27 NEW SUBSECTION. 14B. *"Wireless communications service
28 provider"* means the same as defined in section 34A.2.

29 Sec. 2. NEW SECTION. 8C.7A **Uniform rules for small wireless
30 facilities and small wireless facility networks.**

31 1. Except as provided in this section and notwithstanding
32 any other provision of this chapter, an authority shall not
33 prohibit or restrict the collocation of a small wireless
34 facility or small wireless facility network.

35 2. *a.* A small wireless facility or small wireless facility

1 network shall be classified as a permitted land use within
2 the jurisdiction of an authority that has adopted planning
3 and zoning regulations and shall not be required to obtain
4 a special or conditional land use permit for any of the
5 following:

6 (1) For locating the small wireless facility or small
7 wireless facility network on a public right-of-way or authority
8 property.

9 (2) For locating the small wireless facility or small
10 wireless facility network on property not zoned exclusively for
11 single-family residential use.

12 (3) For collocating the small wireless facility or small
13 wireless facility network on an existing tower, utility pole,
14 or wireless support structure, regardless of the location of
15 the small wireless facility or small wireless network.

16 *b.* A small wireless facility or small wireless facility
17 network may be classified as a special or conditional land use
18 where such small wireless facility or small wireless facility
19 network is not located on a property or collocated in a manner
20 as provided in paragraph "a".

21 3. *a.* An authority may require a person to obtain a
22 building, electrical, or public right-of-way use permit for
23 the collocation of a small wireless facility or small wireless
24 facility network to the extent that such permit is of general
25 applicability and does not deny access by the small wireless
26 facility or small wireless facility network to a public
27 right-of-way.

28 *b.* An authority shall accept an application for, process,
29 and issue a permit under this subsection as follows:

30 (1) An applicant shall not be required to provide more
31 information or pay a higher application fee, consulting fee,
32 or other fee associated with the processing or issuance of
33 a permit than the amount charged to a telecommunications
34 service provider that is not a wireless communications service
35 provider. The total amount of fees for processing or issuing

1 a permit, including any fees charged by third parties, shall
2 not exceed five hundred dollars. An applicant shall not be
3 required to pay any additional fees or perform any services
4 relating to the acceptance, processing, or issuance of a
5 permit.

6 (2) An authority shall approve or deny a permit application
7 within sixty days following the submission of a completed
8 application. An application shall be deemed approved if the
9 authority fails to approve or deny the application within sixty
10 days following the submission of a completed application. This
11 period of time for the processing of an application may be
12 tolled to accommodate timely requests for information required
13 to complete or cure any defects in the application or may be
14 extended by mutual agreement between the authority and the
15 applicant. A single application may address one or more small
16 wireless facilities or small wireless facility networks.

17 (3) (a) An authority may deny a completed application
18 only if the application does not meet applicable building
19 or electrical codes or standards, provided such codes and
20 standards are of general applicability. An authority denying
21 an application shall document the basis for the denial,
22 including the specific code provisions or standards on which
23 the denial is based, and provide the applicant with such
24 documentation on or before the date the application is denied.

25 (b) An applicant whose application is denied shall have
26 an opportunity to cure any deficiencies identified by the
27 authority as the basis for the denial and to submit a revised
28 application within thirty days following the date of denial
29 without paying an additional fee. The authority shall approve
30 or deny a revised application within thirty days following
31 submission.

32 (4) An authority shall not limit the duration of a permit
33 issued under this subsection.

34 (5) An authority shall not impose a moratorium on the
35 processing or issuance of permits under this subsection.

1 (6) An authority shall process and issue permits on
2 a nondiscriminatory basis. An authority shall receive
3 an application for, process, and issue a permit for the
4 collocation of a small wireless facility or small wireless
5 facility network in a manner substantially comparable to
6 the permitting or licensing of other contractors within the
7 jurisdiction of the authority.

8 4. The annual recurring rate charged by an authority
9 for the collocation of a small wireless facility or small
10 wireless facility network on a utility pole shall not exceed
11 the rate computed by the federal communications commission for
12 telecommunications pole attachments in 47 C.F.R. §1.1409(e)(2).

13 5. *a.* An authority shall authorize the collocation of a
14 small wireless facility or small wireless facility network on
15 a wireless support structure not located within the public
16 right-of-way to the same extent the authority authorizes access
17 to such wireless support structures for other commercial
18 projects or uses, and may authorize the collocation even if the
19 authority has not previously permitted such access.

20 *b.* A collocation authorized under this subsection shall
21 be subject to reasonable rates, terms, and conditions as
22 provided in one or more agreements between the authority and
23 the wireless communications service provider. Notwithstanding
24 chapter 480A, the annual recurring rate for such collocation
25 as charged by an authority shall not exceed the least of
26 the amount charged for a similar commercial project or use
27 to occupy a similar area of space on similarly situated
28 property, the projected cost to the authority resulting from
29 the collocation, or five hundred dollars.

30 6. A party aggrieved by the final action of an authority,
31 either by its affirmative action on a permit, term or
32 condition, or rate under the provisions of this section or by
33 its inaction, may bring an action for review in any court of
34 competent jurisdiction.

35 Sec. 3. REPEAL. Section 8C.9, Code 2016, is repealed.

1 EXPLANATION

2 The inclusion of this explanation does not constitute agreement with
3 the explanation's substance by the members of the general assembly.

4 This bill relates to the collocation of small wireless
5 facilities and small facility networks.

6 Code chapter 8C provides a series of uniform rules and
7 limitations for the deployment of and applications for wireless
8 communications facilities and infrastructure. The bill adds
9 specific rules and limitations for the deployment of and
10 application for small wireless facilities and small wireless
11 facility networks to this Code chapter.

12 The bill defines "small wireless facility" as a base
13 station where each antenna is located inside an enclosure of
14 no more than six cubic feet in volume or, in the case of an
15 antenna with exposed elements, the antenna could fit in a
16 theoretical enclosure of six cubic feet in volume, and all
17 other transmission equipment, except for certain equipment
18 described in the bill, is cumulatively no more than 28 cubic
19 feet in volume. A "small wireless facility" does not include
20 any structure that supports or houses equipment. The bill
21 defines "small wireless facility network" as a collection of
22 interrelated small wireless facilities designed to deliver
23 wireless communications service.

24 The bill prohibits an authority from restricting the
25 collocation of small wireless facilities or small wireless
26 facility networks. Such facilities or networks are to be
27 classified as permitted land uses in zoning districts where
28 the facilities or networks are located on public rights-of-way
29 authority property or on property not zoned exclusively for
30 single-family residential use, or where the facilities or
31 networks are collocated on existing towers, utility poles,
32 or wireless support structures. Facilities or networks not
33 located on such property or collocated in such a manner may be
34 classified as special or conditional uses.

35 The bill provides that an authority may require a person to

1 obtain building, electrical, or public way use permits for the
2 collocation of small wireless facilities and small wireless
3 facility networks if such permit is of general applicability
4 and does not deny a facility or network access to a public
5 right-of-way.

6 The bill provides a series of rules and limitations
7 applicable to an application for a permit. The rules and
8 limitations include prohibiting requiring certain information
9 from or about an applicant, limiting the amount of application
10 fees for processing or issuing a permit, time frames within
11 which an authority must approve or deny a permit application,
12 standards for the denial of a permit application, prohibiting
13 limitations on the duration of a permit, prohibiting the
14 imposition of a moratorium on the processing or issuance of
15 permits, and prohibiting the processing or issuance of permits
16 on a discriminatory basis, as specified in the bill.

17 The bill provides that the annual recurring rate charged
18 by an authority for the collocation of small wireless
19 facilities or small wireless facility networks on utility poles
20 cannot exceed the rate computed for telecommunications pole
21 attachments pursuant to federal law.

22 The bill provides that an authority must authorize the
23 collocation of small wireless facilities and small wireless
24 facility networks on wireless support structures not located
25 within public rights-of-way to the same extent the authority
26 permits access for other commercial projects or uses. The
27 annual recurring rate for such collocation cannot exceed
28 the least of the amount charged for a similar project on
29 similar property, the projected cost to the authority for the
30 collocation, or \$500.

31 The bill provides that a party aggrieved by the final action
32 or inaction of an authority may bring an action for review in
33 any court of competent jurisdiction.

34 The bill repeals current Code section 8C.9, which repeals
35 Code chapter 8C on July 1, 2020.